

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE
2006 MAR -9 P 3:08

UNITED STATES OF AMERICA)

V.)

ANTHONY BUCCI, ET. AL.)

Criminal No. 04-10194-RCL)

U.S. DISTRICT COURT
DISTRICT OF MASS.

MOTION OF WITNESS BRYAN RAFTERY TO QUASH SUBPOENA

The witness Bryan Raftery, moves this Court to quash the Subpoena In A Criminal Case dated February 14, 2006 and served on him on February 22, 2006, commanding him to appear in the above-entitled matter on March 20, 2006. In support of this motion, the witness states the following:

(1) On February 14, 2006, the government issued a Subpoena In A Criminal Case, which was served on the witness on February 22, 2006 at his home at 310 Fellsvie Terrace, Stoneham, MA by Drug Enforcement Special Agent Mark G. Tully.

(2) The said subpoena, a copy of which is attached hereto as Exhibit A, commands the witness, "...to appear in the United States District Court" on March 20, 2006, "...or any subsequent place, date and time set by the court, to testify in the above-referenced case. This subpoena shall remain in effect until ...(the witness is) granted leave to depart by the court or by an officer acting on behalf of the court".

(3) In a letter dated February 27, 2006, a copy of which is attached hereto as Exhibit B, to Assistant United States Attorney John McNeil and Assistant United States Attorney S. Theodore Merritt, "In order to assess (the witness') legal status," counsel for

the witness requested that the government furnish him with the following:

- Bryan Raftery's testimony before the grand jury on or about June 29, 2004
- Bryan Raftery's statements and/or reports regarding same made by him at the Stoneham Police Department to Stoneham Police Officer Norton, State Police Officer O'Neil, Special DEA Agent Tully and/or any other local, state or federal law enforcement agents or officials on or about December 8, 2004
- Bryan Raftery's statements and/or reports regarding same made by him at his home at 310 Fellsvie Terrace, Stoneham, MA to Special DEA Agent Tully and/or any other local, state or federal law enforcement agents or officials on or about February 22, 2006
- Bryan Raftery's statements and/or reports regarding same made by him during the course of a telephone conversation(s) with Special DEA Agent Tully and/or any other local, state or federal law enforcement agents or officials on or about February 23, 2006

(4) During the course of telephone conversations on February 2 and 6, 2006, counsel for the government informed counsel for the witness that it would not furnish the witness with the said requested documents.

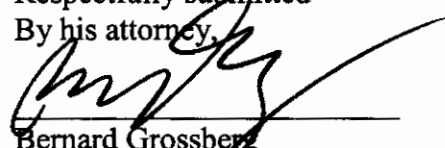
(5) Without access to the said requested documents, counsel for the witness is not able to evaluate or otherwise assess the witness' legal status in regard to his commanded testimony before this Court at the trial of the above-entitled matter and counsel cannot therefore, advise him accordingly.

(6) The government will not be prejudiced in any regard by furnishing counsel for the witness with the said requested documents; whereas, the witness will be irrevocably prejudiced by being compelled to testify before this Court without prior access to the said requested documents and consultation with his counsel. Compelling the witness to testify before this Court in such circumstances violates the witness' rights to due process of law and fundamental fairness, as well as, his right to the effective

assistance of counsel guaranteed him by the Fifth and Sixth Amendments to the Constitution of the United States.

WHEREFORE, witness Bryan Raftery prays that this Court quash the Subpoena In A Criminal Case dated February 14, 2006 and served on him on February 22, 2006.

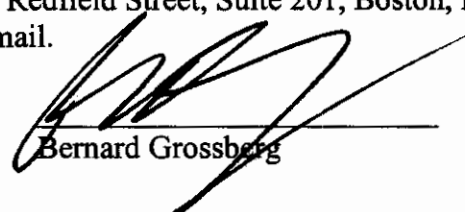
Respectfully submitted
By his attorney,



Bernard Grossberg
99 Summer Street
Suite 1800
Boston, MA 02110
(617) 737-8558
B.B.O. No. 212900

CERTIFICATE OF SERVICE

I, Bernard Grossberg, hereby certify that on this 8th day of March, 2006, I have served a true copy of my **Motion Of Witness Bryan Raftery To Quash Subpoena** upon Assistant United States Attorneys S. Theodore Merritt, Esq. and John McNeil, Office of the United States Attorney, One Courthouse Way, Boston, MA 02210; and upon Michael Natola, Esq., 63 Atlantic Avenue, Suite 2B, Boston, MA 02110 and upon Thomas Drechsler, Esq., Finneran, Byrne & Drechsler, 50 Redfield Street, Suite 201, Boston, MA 02122 by delivering same by pre-paid first class mail.



Bernard Grossberg

AO89 (Rev. 7/95) Subpoena in a Criminal Case

UNITED STATES DISTRICT COURT

JUDICIAL DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

V.

BUCCI, ET AL.

SUBPOENA IN A
CRIMINAL CASE

Case Number: 04-10194-RCL

TO: BRYAN RAFTERY

- ☒ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below, or any subsequent place, date and time set by the court, to testify in the above referenced case. This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

PLACE JOHN JOSEPH MOAKLEY UNITED STATES COURTHOUSE 1 COURTHOUSE WAY BOSTON, MA	COURTROOM #11, 5TH FLOOR
	DATE AND TIME MARCH 20, 2006 9:00 A.M.**

- ☐ YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

**Witness travel & reimbursement instructions are attached.

EXHIBIT A

U.S. MAGISTRATE JUDGE OF DISTRICT OF COURT

DATE 2/14/2006

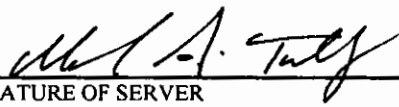
(By) Deputy Clerk

ATTORNEY'S NAME, ADDRESS AND PHONE NUMBER:

S. THEODORE MERRITT, Assistant United States Attorney
USAO, 1 Courthouse Way, Suite 9200
Boston, MA 02210 Tel. No. 617-748-3100



AO89 (Rev. 7/95) Subpoena in a Criminal Case (Reverse)

PROOF OF SERVICE		
RECEIVED BY SERVER	DATE 2-21-2006	PLACE FT Dix, NJ.
SERVED	DATE 2-22-2006	PLACE 310 Fellsviaw Terr, Apt 312A Sturchem, MA
SERVED ON (PRINT NAME) Bryan Raftery		FEES AND MILEAGE TENDERED TO WITNESS YES NO AMOUNT \$ _____
SERVED BY (PRINT NAME) Maek G. Tully		TITLE Special Agent, DEA
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p>Executed on <u>2-22-2006</u></p> <p style="text-align: center; font-size: small;">DATE</p> </div> <div style="width: 50%;"> <p style="text-align: center;"></p> <p style="text-align: center; font-size: small;">SIGNATURE OF SERVER</p> <p style="text-align: center;"><u>15 New Sudbury St, Suite F-400</u></p> <p style="text-align: center; font-size: small;">ADDRESS OF SERVER</p> <p style="text-align: center;"><u>Boston, MA</u></p> </div> </div>		
<p>ADDITIONAL INFORMATION</p>		

Bernard
Grossberg
Attorney at Law

99 Summer Street
Suite 1800
Boston, Massachusetts 02110
(617) 737-8558
Fax 737-8223

February 27, 2006

John McNeil, Esq.
Assistant United States Attorney
Office of the United States Attorney
One Courthouse Way
Boston, MA 02210

S. Theodore Merritt, Esq.
Assistant United States Attorney
Office of the United States Attorney
One Courthouse Way
Boston, MA 02210

Re: UNITED STATES V. ANTHONY BUCCI, ET. AL.
Criminal No. 01-10194-RCL

Dear Messrs. McNeil and Merritt:

Please be advised that I represent Mr. Bryan Rafferty of 310 Fellsvie Terrace, Stoneham, MA. I am in receipt of the Subpoena In A Criminal Case that you caused to be served on him on February 22, 2006 and which directs him to appear in the above-referenced matter on March 20, 2006. In order to assess Mr. Rafferty's legal status, I would greatly appreciate it and I hereby request that you furnish me forthwith the following:

- Bryan Rafferty's testimony before the grand jury on or about June 29, 2004
- Bryan Rafferty's statements and/or reports regarding same made by him at the Stoneham Police Department to Stoneham Police Officer Norton, State Police Officer O'Neil, Special DEA Agent Tully and/or any other local, state or federal law enforcement agents or officials on or about December 8, 2004
- Bryan Rafferty's statements and/or reports regarding same made by him at his home at 310 Fellsvie Terrace, Stoneham, MA to Special DEA Agent

John McNeil, Esq.
S. Theodore Merritt, Esq.
Page – 2 –
February 27, 2006

Tully and/or any other local, state or federal law enforcement agents or officials on or about February 22, 2006

- Bryan Raferty's statements and/or reports regarding same made by him during the course of a telephone conversation(s) with Special DEA Agent Tully and/or any other local, state or federal law enforcement agents or officials on or about February 23, 2006

Please direct any and all future correspondence and/or requests for contact regarding my client directly to me. Please be advised that my client expressed concerns regarding Special DEA Agent Tully's repeated questioning of him during the course of the service of the said subpoena on him on February 22, 2006 after my client unequivocally informed the agent that he was represented by counsel and that he did not agree to be questioned and/or interviewed without the presence of counsel. My client was also concerned that the day following service of the subpoena, after my client had invoked his right to counsel, Special DEA Agent Tully telephoned him on February 23, 2006 and again endeavored to interview him. I trust that there will be no such contact in the future. I look forward to hearing from you in response to the above.

Sincerely,

Bernard Grossberg

BG/cak

cc: Bryan Raferty